

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.25181 of 2011

Arising Out of PS.Case No. -0 Year- null Thana -null District- WESTCHAMPARAN(BETTIAH)

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Shekh Abdul Hai, S/O Shekh Drud, R/O Village-Bhathura, P.S.-Shikarpur, Distt-
West Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. Shekh Kalam, S/O Late Phgui Rahman, Resident of Village-Bherihari, P.S. Purushattampur, Distt.-West Champaran
3. Shekh Ali Imam, S/O Late Phagui Rahman, Resident of Village-Bherihari, P.S. Purushattampur, Distt.-West Champaran
4. Shekh Hoda, S/O Phagui Rahman, Resident of Village-Bherihari, P.S. Purushattampur, Distt.-West Champaran

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT

Date: 30-10-2017

Heard only learned counsel for the petitioner and the
learned A.P.P. for the State as non appears on behalf of the opposite
party nos. 2 to 4.

2. This application, under Section 482 of the Code of
Criminal Procedure, is directed against the order dated 24.06.2011
passed in Case No. 2070M of 2009, whereunder the S.D.M.,
Narkatiyaganj, attached the land in dispute under Section 146(1) of
the Cr.P.C. and appointed the Officer-In-Charge, Shikarpur, as
receiver with direction to deposit the income of the land in dispute in
Nagarat of Sub-Division.



3. It appears that a proceeding was initiated by the S.D.J.M., Narkatiyaganj, under Section 144 Cr.P.C. Cr.P.C., in which, opposite party nos. 2 to 4 were the members of First party and petitioner and his brother Shekh Harun were the members of Second party. Both parties appeared and claimed the land in dispute. The S.D.M., Narkatiyaganj, after hearing the parties arrived at conclusion that the members of both parties are claiming the land in dispute which could not be decided in proceeding under Section 144 Cr.P.C. and converted the proceeding of Section 144 Cr.P.C. into Section 145 Cr.P.C. on 30.12.2009 with direction to the members of both parties to file their written statement till 21.01.2010. In proceeding under Section 145 Cr.P.C., the members of second party filed an application under Section 145(5) Cr.P.C. to drop the proceeding whereas the members of first party filed an application under Section 146(1) Cr.P.C. for attachment of the land in dispute due to apprehension of breach of peace on the spot due to cutting the crops. The S.D.M., Narkatiyaganj, called the report to the officer In-Charge Shikarpur on the application of members of second party-opposite party nos. 2 to 4. The Officer-in-charge, Shikarpur, submitted his report about serious apprehension of breach of peace in respect to land in dispute. Thereafter, the S.D.M, Narkatiyaganj, passed the order under Section 146 Cr.P.C. to attach the land in dispute and appointed the Officer-In-



Charge, Shikarpur, as receiver with direction to deposit the income of the land in dispute regularly to Nagarat of Sub-Division till further order through the impugned order.

4. On going through the impugned order, I find no illegality amounting to abuse of the process of the court for interference in inherent jurisdiction under Section 482 of the Code of Criminal Procedure.

5. Accordingly, this application is dismissed. However, the S.D.M., Narkatiyaganj, is directed to dispose of the case no. 2070 (M) of 2009 expeditiously without unnecessary delay.

(Rajendra Kumar Mishra, J)

Bhardwaj/-

AFR/NAFR	
CAV DATE	
Uploading Date	16.11.2017
Transmission Date	16.11.2017

